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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

JONATHAN MCKINNEY,

           Plaintiff,   Civil No. 08-366-CL

           v.   REPORT AND
RECOMMENDATION

WASHINGTON COUNTY PRISON
HEALTH SERVICES,

           Defendant.

CLARKE, Magistrate Judge.

By Order (#4) entered April 3, 2008, plaintiff's complaint was dismissed for failure to state a claim and plaintiff was allowed 30 days to file an amended complaint. Plaintiff was advised that failure to file an amended complaint as ordered would result in the dismissal of this action.
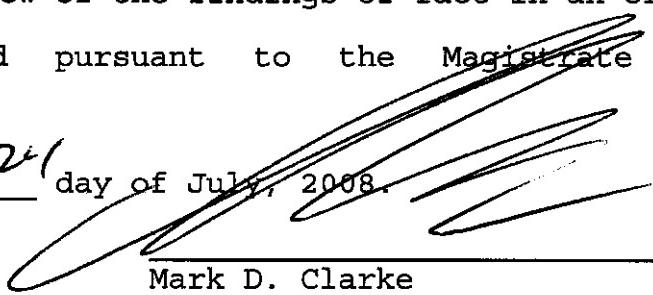
On April 29, plaintiff filed a notice of change of address, and on May 22, 2008, the court's Order (#4) was mailed to plaintiff's new address.

1 - REPORT AND RECOMMENDATION

Over 60 days has past since plaintiff was notified that he had 30 days to file an amended complaint and plaintiff has not filed an amended complaint, requested an extension of time in which to do so, or otherwise contacted the court.

This action should be dismissed for failure to state a claim (as set forth in the court's previous order) and for failure to prosecute

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten (10) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have ten (10) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this ___ day of July, 2008.

Mark D. Clarke
United States Magistrate Judge

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